

FILED

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

07 C 6145

Plaintiff,

MOUNT SINAI HOSPITAL MEDICAL
CENTER and STUART KIKEN, M.D.,

Defendants.

JOHNNIE LEWIS, D.P.M. and NADIRA
ALIKHAN, M.D.,

Respondents in Discovery.

JUDGE DARRAH
MAGISTRATE JUDGE MASON

Formerly Case No. 06-L-010603, Circuit
Court of Cook County, Illinois

To: Dorothy Brown, Clerk of the Court
Circuit Court of Cook County
Richard J. Daley Center, Room 801
50 West Washington Street
Chicago, Illinois 60602

Matthew I. Baker
14 N. LaSalle Street, 9th Floor
Chicago, Illinois 60602

The UNITED STATES, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, submits this notice of removal of the above-captioned civil action from the Circuit Court of Cook County, Illinois, to the United States District Court, Northern District of Illinois, pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 2679, and the Federally Supported Health Centers Assistance Act, 42 U.S.C. §233, and in support states the following:

1. On August 6, 2007, plaintiff George Hill commenced the above civil action against Mount Sinai Hospital Medical Center, a corporation; Stuart Kiken, M.D.; Johnnie Lewis, D.P.M.; Nadira Alikhan, M.D., alleging medical malpractice. A copy of the state court amended complaint is attached as Exhibit A. For purposes of this lawsuit, Stuart Kiken, M.D., was a physician for Access Community Health Network (formally known as Sinai Family Health Centers), a private entity that receives grant money from the Public Health Service pursuant to 42 U.S.C. § 233. By operation of 42 U.S.C. § 233, Access Community Health Network is deemed to be an employee of the United States for purposes of malpractice liability protection under the FTCA.

2. This notice of removal is filed in accordance with 28 U.S.C. § 2679(d) and 42 U.S.C. § 233 upon certification by the designee of the Attorney General of the United States that defendant Stuart Kiken, M.D., was acting within the scope of his employment as a federal government employee at the time of the incidents out of which the claim arose. *See* Certification attached as Exhibit B.

3. Notice of removal may be filed without bond at any time before trial. 28 U.S.C. § 2679(d)(2). Trial has not yet been had in this action.

4. Pursuant to the Certification by the Attorney General's designee and the filing of this notice of removal, under 28 U.S.C. § 2679, this civil action shall be deemed an action against the United States and the United States shall be substituted as the party defendant in lieu of Stuart Kiken, M.D.

WHEREFORE, this action now pending in the Circuit Court of Cook County, Illinois is properly removed to this court pursuant to 28 U.S.C. § 2679(d) and 42 U.S.C. § 233, and the United States is substituted as defendant in lieu of Stuart Kiken, M.D.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By: s/ Harpreet K. Chahal
HARPREET K. CHAHAL
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-1996